IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.W.P.NO.1655 OF 2004

M/s. Free India Concepts]
a Division of Free India]
Assurance Services Ltd.,]
having its office at Babu]
Bhawan, 1st Floor,]
Bala Sheth Madhukar Road,]
Opp.Elphinstone Station]
Elphinstone Road, Mumbai]..Petitioner

Vs.

The State of Maharashtra]
through Inspector Incharge]
Sahuwadi Police Station,]
Kolhapur, Maharashtra]..Respondent

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Mr.A.Y.Sakhare, Senior Advocate with B.R.Patil for Petitioner.
Smt.V.R.Bhosale, A.P.P. for State

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CORAM: D.G.DESHPANDE AND SMT.V.K.TAHILRAMANI,JJ.

DATE : MARCH 28,2006

ORAL JUDGMENT (PER SMT.V.K.TAHILRAMANI,J.):

1. Heard Mr.A.Y.Sakhare, the learned Senior Advocate for the Petitioner and Smt.Bhosale, the learned A.P.P. for the State.

2. This petition is filed for quashing the complaint registered by Shahuwadi Police Station, Kolhapur vide C.R.No. 3001 of 2002. The said C.R. was registered under the provisions of Sections 3, 4 and 5 of Prize Chit and Money Circulation (Banning) Act, 1978. The said case is pending before the learned Judicial Magistrate F.C. Malkapur, Kolhapur.

3. It is contended on behalf of the petitioner that the provisions of the above Act of 1978 are not applicable on the allegations made in the complaint. Reliance is placed on the order of this Court dated 10th July, 2002 in Criminal Writ Petition NO.800 of 2002, wherein the view taken was that such case would at the most amount to breach of contract for which remedy is to go to the Civil Court. That petition was filed against the order of the Magistrate discharging the accused in similar circumstances. The petition filed by the complainant against the said order was dismissed by this Court. The said order was upheld by the Apex Court by order dated 19th August,2002 whereby the Special Leave to Appeal (Cri.) No.3401 of 2002 was dismissed.

4. It may be stated here that C.R.No. 21 of 2002 was filed against the present petitioner at Shahupuri Police Station, Kolhapur under Sections 3, 4 and 5 of the Prize Chit and Money Circulation (Banning) Act, 1978. In respect of the said C.R. Cri.Writ Petition NO.1035 of 2002 came to be filed before this Court. By order dated 5.9.2002 the said C.R. came to be quashed by this Court. The facts relating to C.R.No. 21 of 2002 and the facts relating to the present case are similar. Moreover, the facts relating to Writ Petition No. 800 of 2002 are also similar to the one in the present case.

5. Looking to these facts, we are of the opinion that this writ petition deserves to be allowed. Hence, rule is made absolute in terms of prayer clause (a) of the petition.

6. Petition is disposed of.

[D.G.DESHPANDE, J.]

[SMT.V.K.TAHILRAMANI,J.]